Supreme Court, U.S.
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JOSEPH F. SPANIOL, JR.
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No. 88-925

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1988

ALONZIA HARRIS, CHARLES DAVIS, MAHALIA KEY, THE FIRST CHURCH OF ISRAEL, AN UNINCORPORATED ASSOC., AND THE FIRST CHURCH OF ISRAEL, INC., AN ILLINOIS NOT-FOR-PROFIT CORPORATION.

Petitioners,

V.

ISRAELITE BIBLE CLASS, INC., AN ILLINOIS NOT-FOR-PROFIT CORPORATION.

Respondent.

PETITIONER'S REPLY BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

ALONZIA HARRIS
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Pro Se

QUESTION PRESENTED

(1) Whether the Order of the Trial Court stripped the members of Petitioner Religious Organization, The First Church of Israel Assoc., The First Church of Israel, Inc., and the children and grandchildren of Petitioners of their vested property rights without them being included as parties or without the minors being provided with legal assistance.

(2) Whether the courthouse doors is being slamed in the face of Petitioners and Petitioners unpopular Religious Organization, The First Church of Israel, as a result of their inability to obtain necessary legal assistance to ascertain their legal rights.

LIST OF PARTIES

The parties of the proceeding below were the petitioners Alonzia Harris, Charles Davis, Mahalia Key and the Respondent the Israelite Bible Class, Inc.

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The Respondent Attorney of record Paul F. Henry has filed a Brief in opposition to the Petition for A Writ of Certiorari file by Alonzia Harris, Charles Davis, and Mahalia Key pro se. Petitioners believes that most of the points made by the Respondent were fully addressed in the Petition. However, some of the Respondent arguments were not specifically or directly confronted in Petition and do warrant this Brief Reply.

ARGUMENT

1. The Respondent Attorney Mr. Paul F. Henry assert in his Brief, for Respondent in opposition to Petition For Writ of Certiorari

page 34, "The Petitioners proceeded to trial pro se and did an admirable job in their own defense. On Appeal the Petitioners made formal request for appointment of counsel which was denied. (A-42). The denial of appointed counsel did not deprive Petitioners of any cognizable Constitutional Privilege."

The Respondent Attorney Mr. Paul F. Henry stated in his Brief to the Appellate Court

page 15, "Since the argument presented in Defendants' Brief is confusing, obtuse, and sometimes bordering on the undecipherable, Defendants have not performed their duty to this Court of providing in their Brief lucid and persuasive argument." Page 17 of Respondent Appellate Court states, "Defendants' Brief is so confusing that it is most difficult, if not impossible, for Plaintiff to answer."

The Respondent Attorney Mr. Paul Henry appears to be trying to manipulate this Honorable Court by conflicting statements, concerning Petitioners ability to defend themeselves and their homes.

The Appellate Courts denial of request for appointed counsel when it became appearent the Petitioners could not defend themselves

against two highly qualified attorneys violated Petitioners right to due process as required by the Fifth and Fourteenth Amendments of the Constitution of the United States and Article 1 & 2 of the Constitution of the State of Illinois.

The Defendants tried every avenue, contacting private attorneys as well as all public legal assistance groups, such as Land of Lincoln and the Southern Illinois University School of Law Legal Clinic in an unsucessful attempt to get legal representation. The Plaintiff, on the other hand, using funds generated by the land in dispute, hired two highly qualified and experience attorneys who were able to win ever issue and on every motion and appeal against Petitioners. Petitioner, Alonzia Harris who helped with all the legal research has a tenth grade education. Charles Davis, who wrote all briefs and prepared all motions, completed the eleventh grade. Mahalia Key, who also assisted in the legal efforts of Petitioner, completed one year of college. Due process is not a

technical conception with a fixed content unrelated to time, place, and circumstances; rather, it is flexible and calls for such procedural protections as particular situations demands. Mathews V. Eldridge, 96 s. ct. 893, 424 U.S. 319, 47 L. ed 2d 18. (1976). Petitioners did not choose to be pro se litigants but were thrust into the position of defending themselves pro se, or letting Plaintiff remove them from their homes and families. Application of the due process clause is an uncertain enterprise which must discover what "fundamental fairness" consists of in a particular situation by first considering any relevant precedents and then by assessing the several interests that are at stake; due process also requires the assessment of the risk that procedures being used will lead to erroneous decisions. U.S.C.A. Const. Amend. 5, 14, McCleskey V. Kemp. 753 F. 2d 877, Crist V. Lane, 745 F. 2d 476, U.S. V. Crozier, 777 F. 2d 1376 Walters V. National Ass'n of Radiation Survivors, 105 s. ct 3180

Haygood V. Younger, 769 F.2d 1350

Hanke V. Walters, 740 F.2d 654

Davis V. Manfield Metropolitan Housing Authority, 751 F.2d 180

2. The Respondent attorney Mr. Paul Henry asserts that the adjudication of property rights by the trial Court was done in accordance with "Neutral Principles" page 31, of Respondent Brief in opposition to Petition for Writ of Certiorari.

The Trial Court did not use "Neutral Principles" when it refused to accept and examine defendants Exhibit No. "4", the Abstracts of the real estate, showing a true history of recorded title and business transaction relating to the real estate from 1953 to 1986, compiled by a license Abstract Company, Abstractor of Titles for Pulaski County 232 Main Streets Mound City, Illinois.

The funds used to acquire the property were contributed entirely by church members, giving each member the right to erect and maintain a home on the real estate at his or her own expense. 1953 Israelite Bible Class

Inc., By Laws Article 7: 1-5.

From 1971 pursuant to resolution adopted by the congregation, the name was changed to The First Church of Israel, the church repeatedly has borrowed money on the property. This indebtedness is evidenced by security deeds variously issued in the name of The First Church of Israel.

In 1977 a schism arouse when previously members of The First Church of Israel sever their connection with The First Church of Israel and restablish the old Organization the Israelite Bible Class, taking over the property, farm equipment and the place of worship, to the total exclusion of The First Church of Israel members.

The trial Court violated Petitioners Constitutional rights in adjudication of property rights of two religious organization, and failing to judge on the principles and rules established by prior authority.

Const. Amend. 1, 14

Mathias Ferraria et al., V. John Vasconcellos et al., 23 Ill, 456

(31 Ill 25), January Term (1863).

Christian Church V. Church of Christ, Supra 219 Ill, 503, 76 N.E. 703.

Smith et Al. V. Pedigo et al., May 1893, 145 Ind 361, 33 N.E. 777.

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Illinois Central Railroad Company, A Corp, V. The Michigan Central Railroad Company, A Corp, and The York Central Railroad Company, A Corporation. 153 N.E. 2d 627 (1958)

3. Alonzia Harris, has been a member and resident on the real estate acquire by the church members for 25 years, Charles Davis has been a member and resident on the real estate acquire by church members for 14 years, Mahalia Key has been a member and resident on the real estate acquire by church members for 16 years.

Respondent attorney Mr. Paul Henry on page 27 of his Brief in opposition to Petition For Writ of Certiorari, make reference to a stipulation introduced by Petitioners late

Attorney Mr. Clinton Thurston concerning the interest of Petitioners. Petitioners have paid joining fees of one thousand dollars for men and five hundred for woman, special assessment, montly assessment to help pay off the morgages and taxes over years, as a resident of the real estate.

Weisbrod V. Chicago & Nothwestern Railway Co., 20 Wis. 419; In the Weisbrod case an admission upon a former trial by the attorney for the defendant, as to the amount of damages sustained by Plaintiff, was introduced as an admission in a subsequent trial. "This Court said: Such admissions are frequently made for the purpose of saving time, where counsel are confident of success upon some other point; and when so made, are always understood to have reference to the trial when pending, and not as stipulations which shall bind at any future trail."

Respondent attorney Mr. Paul F. Henry in preparing his Brief in opposition of Petition For Writ of Certiorari, failed to comply with Supreme Court Rule 33 1.(A) in

preparing his Appendix.

CONCLUSION

Based upon the foregoing arguments and authorities, we respectfully request that a Writ of Certiorari be issued to review the judgment of the Illinois Appellate Court Fifth Judicial District.

Respectfully Submitted,

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Mahalia Key

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January 31, 1989